

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IVY FOUNTAIN,

Case No. 19-cv-836 (NEB/DTS)

Petitioner,

v.

REPORT AND RECOMMENDATION

WARDEN R. MARQUES,

Respondent.

Ivy Fountain, #07124-029, Federal Correctional Institution - Oxford, County Road G & Elk Avenue, Oxford, WI 53952, *Pro Se* Petitioner

Ana Voss, Andrew Tweeten, and Ann Bildtsen, Assistant U.S. Attorneys, United States Attorney's Office, 300 South Fourth Street, Suite 600, Minneapolis, MN 55415, for Respondent

On November 6, 2019 the Court ordered Petitioner Ivy Fountain to advise the Court by November 22, 2019 whether the Bureau of Prisons (BOP) had accurately recalculated his sentence pursuant to the First Step Act (FSA), which became effective on July 19, 2019, and/or whether he wishes to continue to pursue the relief sought in his habeas petition. See Order, Docket No. 8. The Government was given a deadline of December 6, 2019 to respond to any information he provided. *Id.* Fountain did not file anything with the Court and consequently there was no response by the Government.

As stated in the previous Order, at the time of Fountain's habeas petition and the Government's response, the FSA was not yet in effect, and his projected release dates on his two sentences were July 25, 2020 and July 24, 2021. Once the FSA became effective, however, the Government was obligated to recalculate his sentences pursuant

to applicable provisions of the statute. As of the November 6, 2019 Order (and today) the public BOP Inmate Locator stated Fountain's release date as May 25, 2020, from which the Court concluded that the BOP had recalculated his sentence pursuant to the FSA and thus his habeas petition may be moot.

Having received no information from Fountain in response to the November 6, 2019 Order, IT IS HEREBY RECOMMENDED that his Petition for a Writ of Habeas Corpus [Docket No. 1] be DENIED AS MOOT and this action be DISMISSED WITHOUT PREJUDICE.

Dated: December 9, 2019

s/David T. Schultz
DAVID T. SCHULTZ
United States Magistrate Judge

NOTICE

Filing Objections: This Report and Recommendation is not an order or judgment of the District Court and is therefore not appealable directly to the Eighth Circuit Court of Appeals.

Under Local Rule 72.2(b)(1), "a party may file and serve specific written objections to a magistrate judge's proposed finding and recommendations within 14 days after being served a copy" of the Report and Recommendation. A party may respond to those objections within 14 days after being served a copy of the objections. LR 72.2(b)(2). All objections and responses must comply with the word or line limits set for in LR 72.2(c).